

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

UNITED STATES OF AMERICA,)
)
)
Plaintiff,)
)
)
V.)
)
MICHAEL ISSAC BETHEL,)
)
)
Defendant.)

MEMORANDUM AND ORDER

This cause came before the Court on November 19, 2008, for an arraignment on the Superseding Indictment [Doc. 18] and a motion hearing on the Defendant's Motion to Continue Trial [Doc. 19], filed on November 18, 2008. Assistant United States Attorney Cynthia Davidson appeared on behalf of the government. Attorney Bruce E. Poston represented the defendant, who was also present. Following the arraignment, defense counsel argued that he wished to continue the November 20, 2008 trial date because he needed more time to investigate the case and to prepare for trial. In this regard, he pointed out that the new indictment added nine (9) new substantive counts and substantially increased the penalty that the defendant was facing. Accordingly, he needed additional time to prepare for trial. The government did not contest defense counsel's need for additional preparation time and the changes to the indictment. The Court questioned the defendant, who affirmed that he agreed with the requested continuance and that he understood that he would remain in custody until his new trial date.

The Court notes that this case was set for trial on November 20, 2008, before District Judge Thomas W. Phillips. The Superseding Indictment, which charges the defendant with four (4)

different robberies and an attempted robbery and adds an additional five (5) counts of use, carrying, and brandishing a firearm in furtherance of these robberies and attempted robberies, as well as one (1) count of being a felon in possession. In addition, the allegations cover four (4) different dates and five (5) different locations. Accordingly, the Court finds the defendant's motion to continue trial [Doc. 19] to be well taken and that the ends of justice served by granting a continuance outweigh the interest of the defendant and the public in a speedy trial. 18 U.S.C. § 3161(h)(8)(A). The defendant seeks additional time to investigate and prepare pretrial motions in the wake of the recent addition of the new counts in the Indictment, defense counsel's busy litigation schedule, and the need to obtain new discovery, review the same and prepare for trial. The Court finds that the failure to grant a continuance would deprive defense counsel of the reasonable time necessary to prepare effectively for a trial on the Superseding Indictment despite his due diligence. See 18 U.S.C. § 3161(h)(8)(B)(iv). The Court finds that such preparation cannot be accomplished prior to the new trial date of **April 16, 2009**.

The Court finds, and the parties agree, that all the time between the **November 19, 2008** hearing date and the new trial date of **April 16, 2009**, is fully excludable time under 18 U.S.C. § 3161(h)(8)(A)-(B). The Court set a new motion filing deadline for **December 22, 2008** and the government's responses are due by **January 8, 2009**. The Court also set a pretrial conference before The Honorable H. Bruce Guyton on **January 21, 2009 at 9:30 a.m.**

Accordingly, it is ordered:

- (1) The Defendant's Motion to Continue Trial [Doc. 19] is **GRANTED**;
- (2) The trial of this matter is reset to commence on **April 16, 2009, at 9:00 a.m.**, before the Thomas W. Phillips, United States District Court Judge;

- (3) All time between the **November 19, 2008** hearing and the new trial date of **April 16, 2009**, is fully excludable time for speedy trial purposes as set forth above;
- (4) The new motion filing deadline is **December 22, 2008**, and all responses are due by **January 8, 2009**; and
- (5) A pretrial conference is set before The Honorable H. Bruce Guyton on **January 21, 2009, at 9:30 a.m.**

IT IS SO ORDERED.

ENTER:

s/ C. Clifford Shirley, Jr.
United States Magistrate Judge